

# COMMITTEE REPORT

## MADAM PRESIDENT:

**The Senate Committee on Local Government, to which was referred House Bill No. 1358, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:**

- 1       Page 1, between the enacting clause and line 1, begin a new  
2       paragraph and insert:  
3       "SECTION 1. IC 6-1.1-24-1, AS AMENDED BY P.L.169-2006,  
4       SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
5       JULY 1, 2009]: Sec. 1. (a) On or ~~before July~~ **after January** 1 of each  
6       year ~~or but not later than~~ **fifty-one (51)** days after the **first** tax  
7       payment due date **of the tax sale year**, the county treasurer (or county  
8       executive, in the case of property described in subdivision (2)) shall  
9       certify to the county auditor a list of real property on which any of the  
10      following exist:  
11       (1) In the case of real property other than real property described  
12       in subdivision (2), any property taxes or special assessments  
13       certified to the county auditor for collection by the county  
14       treasurer from the prior year's spring installment or before are  
15       delinquent as determined under IC 6-1.1-37-10.  
16       (2) In the case of real property for which a county executive has  
17       certified to the county auditor that the real property is:  
18       (A) vacant; or  
19       (B) abandoned;  
20      any property taxes or special assessments from the prior year's fall

installment or before that are delinquent as determined under IC 6-1.1-37-10. The county executive must make a certification under this subdivision not later than sixty-one (61) days before the earliest date on which application for judgment and order for sale may be made.

(3) Any unpaid costs are due under section 2(b) of this chapter from a prior tax sale.

(b) The county auditor shall maintain a list of all real property eligible for sale. Unless the taxpayer pays to the county treasurer the amounts in subsection (a), the taxpayer's property shall remain on the list. The list must:

(1) describe the real property by parcel number and common address, if any;

(2) for a tract or item of real property with a single owner, indicate the name of the owner; and

(3) for a tract or item with multiple owners, indicate the name of at least one (1) of the owners.

(c) Except as otherwise provided in this chapter, the real property so listed is eligible for sale in the manner prescribed in this chapter.

(d) Not later than fifteen (15) days after the date of the county treasurer's certification under subsection (a), the county auditor shall mail by certified mail a copy of the list described in subsection (b) to each mortgagee who requests from the county auditor by certified mail a copy of the list. Failure of the county auditor to mail the list under this subsection does not invalidate an otherwise valid sale.

**(e) After the date the treasurer certifies the list under subsection (a), and before the date on which tax sale certificates on the properties are offered for sale, political subdivisions in the county may not certify to the county auditor or county treasurer any special assessments, fees, penalties, or charges for collection. The only charges allowable for collection during this period are for real property tax payments under IC 6-1.1 that are due during this period and any penalties."**

Page 4, after line 6, begin a new paragraph and insert:

"SECTION 3. IC 32-29-7-8.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 8.1. The sheriff shall require the party that files a praecipe for a sheriff's sale under section 3(b) of**

1     **this chapter to pay all delinquent property taxes, special**  
 2     **assessments, penalties, and interest that are due and owing on the**  
 3     **date of the sale, or pay any amount of redemption if a tax sale**  
 4     **certificate is outstanding. If the taxes or redemption amount is not**  
 5     **paid in full by the date of the sale, the sheriff shall cancel the sale.**  
 6     **The sheriff may not conduct a subsequent sale unless another**  
 7     **praecipe for a sheriff's sale is filed under section 3(b) of this**  
 8     **chapter and all other requirements under this chapter for a**  
 9     **sheriff's sale are fulfilled.**

10     SECTION 4. IC 32-30-10-14 IS AMENDED TO READ AS  
 11     FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 14. The proceeds of a  
 12     sale described in IC 32-29-7 or section 8 or 12(b) of this chapter must  
 13     be applied in the following order:

14         (1) Expenses of the offer and sale, including expenses incurred  
 15         under IC 32-29-7-4 or section 9 of this chapter (or IC 34-1-53-6.5  
 16         or IC 32-15-6-6.5 before their repeal).

17         ~~(2) The amount of any property taxes on the property sold:~~

18             ~~(A) that are due and owing; and~~

19             ~~(B) for which the due date has passed as of the date of the~~  
 20             ~~sheriff's sale.~~

21         ~~The sheriff shall transfer the amounts collected under this~~  
 22         ~~subdivision to the county treasurer not more than ten (10) days~~  
 23         ~~after the date of the sheriff's sale.~~

24         ~~(3) Any amount of redemption where a certificate of sale is~~  
 25         ~~outstanding.~~

26         ~~(4)~~ (2) The payment of the principal due, interest, and costs not  
 27         described in subdivision (1).

28         ~~(5)~~ (3) The residue secured by the mortgage and not due.

29         ~~(6)~~ (4) If the residue referred to in subdivision ~~(5)~~ (3) does not  
 30         bear interest, a deduction must be made by discounting the legal  
 31         interest.

32     In all cases in which the proceeds of sale exceed the amounts described  
 33     in subdivisions (1) through ~~(6)~~; (4), the surplus must be paid to the  
 34     clerk of the court to be transferred, as the court directs, to the mortgage  
 35     debtor, mortgage debtor's heirs, or other persons assigned by the  
 36     mortgage debtor.

37     SECTION 5. IC 35-43-2-2 IS AMENDED TO READ AS  
 38     FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) A person who:

- 1 (1) not having a contractual interest in the property, knowingly or
- 2 intentionally enters the real property of another person after
- 3 having been denied entry by the other person or that person's
- 4 agent;
- 5 (2) not having a contractual interest in the property, knowingly or
- 6 intentionally refuses to leave the real property of another person
- 7 after having been asked to leave by the other person or that
- 8 person's agent;
- 9 (3) accompanies another person in a vehicle, with knowledge that
- 10 the other person knowingly or intentionally is exerting
- 11 unauthorized control over the vehicle;
- 12 (4) knowingly or intentionally interferes with the possession or
- 13 use of the property of another person without the person's consent;
- 14 (5) not having a contractual interest in the property, knowingly or
- 15 intentionally enters the dwelling of another person without the
- 16 person's consent; ~~or~~
- 17 (6) knowingly or intentionally:
  - 18 (A) travels by train without lawful authority or the railroad
  - 19 carrier's consent; and
  - 20 (B) rides on the outside of a train or inside a passenger car,
  - 21 locomotive, or freight car, including a boxcar, flatbed, or
  - 22 container without lawful authority or the railroad carrier's
  - 23 consent;
- 24 **(7) not having a contractual interest in the property,**
- 25 **knowingly or intentionally enters or refuses to leave the**
- 26 **property of another person after having been prohibited from**
- 27 **entering or asked to leave the property by a law enforcement**
- 28 **officer when the property is:**
  - 29 **(A) vacant or designated by a municipality or county**
  - 30 **enforcement authority to be abandoned property; and**
  - 31 **(B) subject to abatement under IC 32-30-6, IC 32-30-7,**
  - 32 **IC 32-30-8, IC 36-7-9, or IC 36-7-36; or**
- 33 **(8) knowingly or intentionally enters the property of another**
- 34 **person after being denied entry by a court order that has been**
- 35 **issued to the person or issued to the general public by**
- 36 **conspicuous posting on or around the premises in areas where**
- 37 **a person can observe the order when the property:**
  - 38 **(A) has been designated by a municipality or county**

**enforcement authority to be a vacant property or an abandoned property; and**

**(B) is subject to an abatement order under IC 32-30-6, IC 32-30-7, IC 32-30-8, IC 36-7-9, or IC 36-7-36;**

commits criminal trespass, a Class A misdemeanor. However, the offense is a Class D felony if it is committed on a scientific research facility, on school property, or on a school bus or the person has a prior unrelated conviction for an offense under this section concerning the same property.

(b) A person has been denied entry under subdivision (a)(1) of this section when the person has been denied entry by means of:

(1) personal communication, oral or written; ~~or~~

(2) posting or exhibiting a notice at the main entrance in a manner that is either prescribed by law or likely to come to the attention of the public; **or**

**(3) a hearing authority or court order under IC 32-30-6, IC 32-30-7, IC 32-30-8, IC 36-7-9, or IC 36-7-36.**

**(c) A law enforcement officer may not deny entry to property or ask a person to leave a property under subsection (a)(7) unless there is reasonable suspicion that criminal activity has occurred or is occurring.**

**(d) A person described in subsection (a)(7) violates subsection (a)(7) unless the person has the written permission of the owner, owner's agent, enforcement authority, or court to come onto the property for purposes of performing maintenance, repair, or demolition.**

**(e) A person described in subsection (a)(8) violates subsection (a)(8) unless the court that issued the order denying the person entry grants permission for the person to come onto the property.**

~~(c)~~ **(f)** Subsections (a), ~~and~~ (b), **and** (e) do not apply to the following:

(1) A passenger on a train.

(2) An employee of a railroad carrier while engaged in the performance of official duties.

(3) A law enforcement officer, firefighter, or emergency response personnel while engaged in the performance of official duties.

(4) A person going on railroad property in an emergency to rescue a person or animal from harm's way or to remove an object that

1 the person reasonably believes poses an imminent threat to life or  
2 limb.

3 (5) A person on the station grounds or in the depot of a railroad  
4 carrier:

5 (A) as a passenger; or

6 (B) for the purpose of transacting lawful business.

7 (6) A:

8 (A) person; or

9 (B) person's:

10 (i) family member;

11 (ii) invitee;

12 (iii) employee;

13 (iv) agent; or

14 (v) independent contractor;

15 going on a railroad's right-of-way for the purpose of crossing at a  
16 private crossing site approved by the railroad carrier to obtain  
17 access to land that the person owns, leases, or operates.

18 (7) A person having written permission from the railroad carrier  
19 to go on specified railroad property.

20 (8) A representative of the Indiana department of transportation  
21 while engaged in the performance of official duties.

22 (9) A representative of the federal Railroad Administration while  
23 engaged in the performance of official duties.

24 (10) A representative of the National Transportation Safety Board  
25 while engaged in the performance of official duties.

26 SECTION 6. IC 36-1-6-4, AS AMENDED BY P.L.194-2007,  
27 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
28 JULY 1, 2009]: Sec. 4. (a) A municipal corporation may bring a civil  
29 action as provided in IC 34-28-5-1 if a person:

30 (1) violates an ordinance regulating or prohibiting a condition or  
31 use of property; or

32 (2) engages in conduct without a license or permit if an ordinance  
33 requires a license or permit to engage in the conduct.

34 (b) A court may take any appropriate action in a proceeding under  
35 this section, including any of the following actions:

36 (1) Issuing an injunction.

37 (2) Entering a judgment.

38 (3) Ordering an inspection.

- 1 (4) Ordering a property vacated.
- 2 (5) Imposing a penalty not to exceed an amount set forth in
- 3 IC 36-1-3-8(a)(10).
- 4 (6) Imposing court costs and fees in accordance with IC 33-37-4-2
- 5 and IC 33-37-5.
- 6 (7) Ordering a defendant to take appropriate action to bring a
- 7 property into compliance with an ordinance within a specified
- 8 time.
- 9 (8) Ordering a municipal corporation to take appropriate action to
- 10 bring a property into compliance with an ordinance in accordance
- 11 with IC 36-1-6-2.

12 **(9) Ordering a property demolished.**

13 **(c) As a part of an order issued under this section, a court shall**  
 14 **grant the municipal corporation a continuous enforcement order**  
 15 **that authorizes specific ongoing compliance and enforcement**  
 16 **activities if a property requires reinspection or additional periodic**  
 17 **abatement. As used in this section, "continuous enforcement order"**  
 18 **means an order issued for compliance or abatement that remains**  
 19 **in full force and effect on a property without further requirement**  
 20 **to seek additional compliance and abatement authority or orders**  
 21 **for the same or similar violations. The municipal corporation may**  
 22 **assess and collect ongoing costs for continuous enforcement order**  
 23 **activities from any party subject to the court's order. Continuous**  
 24 **enforcement orders can be enforced, including assessment of fees**  
 25 **and costs, without the need for additional notice or hearing.**

26 SECTION 7. IC 36-7-9-5, AS AMENDED BY P.L.88-2006,  
 27 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 28 JULY 1, 2009]: Sec. 5. (a) The enforcement authority may issue an  
 29 order requiring action relative to any unsafe premises, including:

- 30 (1) vacating of an unsafe building;
- 31 (2) sealing an unsafe building against intrusion by unauthorized
- 32 persons, in accordance with a uniform standard established by
- 33 ordinance;
- 34 (3) extermination of vermin in and about the unsafe premises;
- 35 (4) removal of trash, debris, fire hazardous material, or a public
- 36 health hazard in and about the unsafe premises;
- 37 (5) repair or rehabilitation of an unsafe building to bring it into
- 38 compliance with standards for building condition or maintenance

required for human habitation, occupancy, or use by a statute, a rule adopted under IC 4-22-2, or an ordinance;

(6) **demolition and** removal of part of an unsafe building;

(7) **demolition and** removal of an unsafe building ~~and~~ if:

(A) **the general condition of the building warrants removal; or**

(B) **the building continues to require reinspection and additional abatement action after an initial abatement action was taken pursuant to notice and an order; and**

(8) requiring, for an unsafe building that will be sealed for a period of more than ninety (90) days:

(A) sealing against intrusion by unauthorized persons and the effects of weather;

(B) exterior improvements to make the building compatible in appearance with other buildings in the area; and

(C) continuing maintenance and upkeep of the building and premises;

in accordance with standards established by ordinance.

Notice of the order must be given under section 25 of this chapter. The ordered action must be reasonably related to the condition of the unsafe premises and the nature and use of nearby properties. The order supersedes any permit relating to building or land use, whether that permit is obtained before or after the order is issued.

(b) The order must contain:

(1) the name of the person to whom the order is issued;

(2) the legal description or address of the unsafe premises that are the subject of the order;

(3) the action that the order requires;

(4) the period of time in which the action is required to be accomplished, measured from the time when the notice of the order is given;

(5) if a hearing is required, a statement indicating the exact time and place of the hearing, and stating that person to whom the order was issued is entitled to appear at the hearing with or without legal counsel, present evidence, cross-examine opposing witnesses, and present arguments;

(6) if a hearing is not required, a statement that an order under subsection (a)(2), (a)(3), (a)(4), or (a)(5) becomes final ten (10)



1 days after notice is given, unless a hearing is requested in writing  
 2 by a person holding a fee interest, life estate interest, or equitable  
 3 interest of a contract purchaser in the unsafe premises, and the  
 4 request is delivered to the enforcement authority before the end  
 5 of the ten (10) day period;

6 (7) a statement briefly indicating what action can be taken by the  
 7 enforcement authority if the order is not complied with;

8 (8) a statement indicating the obligation created by section 27 of  
 9 this chapter relating to notification of subsequent interest holders  
 10 and the enforcement authority; and

11 (9) the name, address, and telephone number of the enforcement  
 12 authority.

13 (c) The order must allow a sufficient time, of at least ten (10) days,  
 14 but not more than sixty (60) days, from the time when notice of the  
 15 order is given, to accomplish the required action. If the order allows  
 16 more than thirty (30) days to accomplish the action, the order may  
 17 require that a substantial beginning be made in accomplishing the  
 18 action within thirty (30) days.

19 (d) The order expires two (2) years from the day the notice of the  
 20 order is given, unless one (1) or more of the following events occurs  
 21 within that two (2) year period:

22 (1) A complaint requesting judicial review is filed under section  
 23 9 of this chapter.

24 (2) A contract for action required by the order is let at public bid  
 25 under section 11 of this chapter.

26 (3) A civil action is filed under section 17 of this chapter.

27 SECTION 8. IC 36-7-9-7, AS AMENDED BY P.L.169-2006,  
 28 SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 29 JULY 1, 2009]: Sec. 7. (a) A hearing must be held relative to each  
 30 order of the enforcement authority, except for an order issued under  
 31 section 5(a)(2), 5(a)(3), 5(a)(4), or 5(a)(5) of this chapter. An order  
 32 issued under section 5(a)(2), 5(a)(3), 5(a)(4), or 5(a)(5) of this chapter  
 33 becomes final ten (10) days after notice is given, unless a hearing is  
 34 requested before the ten (10) day period ends by a person holding a fee  
 35 interest, life estate interest, mortgage interest, or equitable interest of  
 36 a contract purchaser in the unsafe premises. The hearing shall be  
 37 conducted by the hearing authority.

38 (b) The hearing shall be held on a business day no earlier than ten

(10) days after notice of the order is given. The hearing authority may, however, take action at the hearing, or before the hearing if a written request is received by the enforcement authority not later than five (5) days after notice is given, to continue the hearing to a business day not later than fourteen (14) days after the hearing date shown on the order. Unless the hearing authority takes action to have the continued hearing held on a definite, specified date, notice of the continued hearing must be given to the person to whom the order was issued at least five (5) days before the continued hearing date, in the manner prescribed by section 25 of this chapter. If the order being considered at the continued hearing was served by publication, it is sufficient to give notice of the continued hearing by publication unless the enforcement authority has received information in writing that enables it to make service under section 25 of this chapter by a method other than publication.

(c) The person to whom the order was issued, any person having a substantial property interest in the unsafe premises that are the subject of the order, or any other person with an interest in the proceedings may appear in person or by counsel at the hearing. Each person appearing at the hearing is entitled to present evidence, cross-examine opposing witnesses, and present arguments.

(d) At the conclusion of any hearing at which a continuance is not granted, the hearing authority may make findings and take action to:

- (1) affirm the order;
- (2) rescind the order; or
- (3) modify the order, but unless the person to whom the order was issued, or counsel for that person, is present at the hearing, the hearing authority may modify the order in only a manner that makes its terms less stringent.

(e) In addition to affirming the order, in those cases in which the hearing authority finds that there has been a willful failure to comply with the order, the hearing authority may impose a civil penalty in an amount not to exceed five thousand dollars (\$5,000). The effective date of the civil penalty may be postponed for a reasonable period, after which the hearing authority may order the civil penalty reduced or stricken if the hearing authority is satisfied that all work necessary to fully comply with the order has been done. For purposes of an appeal under section 8 of this chapter or enforcement of an order under section

17 of this chapter, action of the hearing authority is considered final upon the affirmation of the order, even though the hearing authority may retain jurisdiction for the ultimate determination related to the civil penalty. In the hearing authority's exercise of continuing jurisdiction, the hearing authority may, in addition to reducing or striking the civil penalty, impose one (1) or more additional civil penalties in an amount not to exceed five thousand dollars (\$5,000) per civil penalty. An additional civil penalty may be imposed if the hearing authority finds that:

(1) significant work on the premises to comply with the affirmed order has not been accomplished; and

(2) the premises have a negative effect on property values or the quality of life of the surrounding area or the premises require the provision of services by local government in excess of the services required by ordinary properties.

(f) If, at a hearing, a person to whom an order has been issued requests an additional period to accomplish action required by the order, and shows good cause for this request to be granted, the hearing authority may grant the request. However, as a condition for allowing the additional period, the hearing authority may require that the person post a performance bond to be forfeited if the action required by the order is not completed within the additional period.

**(g) If an order is affirmed or modified, the hearing authority shall issue a continuous enforcement order as provided for in IC 36-1-6-4(c).**

~~(g)~~ **(h)** The board or commission having control over the department shall, at a public hearing, after having given notice of the time and place of the hearing by publication in accordance with IC 5-3-1, adopt a schedule setting forth the maximum amount of performance bonds applicable to various types of ordered action. The hearing authority shall use this schedule to fix the amount of the performance bond required under subsection (f).

~~(h)~~ **(i)** The record of the findings made and action taken by the hearing authority at the hearing shall be available to the public upon request. However, neither the enforcement authority nor the hearing authority is required to give any person notice of the findings and action.

~~(i)~~ **(j)** If a civil penalty under subsection (e) is unpaid for more than

1       fifteen (15) days after payment of the civil penalty is due, the civil  
 2       penalty may be collected from any person against whom the hearing  
 3       officer assessed the civil penalty or fine. A civil penalty or fine may be  
 4       collected under this subsection in the same manner as costs under  
 5       section 13 or 13.5 of this chapter. The amount of the civil penalty or  
 6       fine that is collected shall be deposited in the unsafe building fund.

7       SECTION 9. IC 36-7-9-17 IS AMENDED TO READ AS  
 8       FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 17. (a) The department,  
 9       acting through its enforcement authority, a person designated by the  
 10      enforcement authority, or a community organization may bring a civil  
 11      action regarding unsafe premises in the circuit, superior, or municipal  
 12      court of the county. The department is not liable for the costs of such  
 13      an action. The court may grant one (1) or more of the kinds of relief  
 14      authorized by sections 18 through 22 of this chapter.

15      (b) A civil action may not be initiated under this section before the  
 16      final date of an order or an extension of an order under section 5(c) of  
 17      this chapter requiring:

18          (1) the completion; or

19          (2) a substantial beginning toward accomplishing the completion;  
 20      of the required remedial action.

21      (c) A community organization may not initiate a civil action under  
 22      this section if:

23          (1) the enforcement authority or a person designated by the  
 24          enforcement authority has filed a civil action under this section  
 25          regarding the unsafe premises; or

26          (2) the enforcement authority has issued a final order that the  
 27          required remedial action has been satisfactorily completed.

28      (d) A community organization may not initiate a civil action under  
 29      this section if the real property that is the subject of the civil action is  
 30      located outside the specific geographic boundaries of the area defined  
 31      in the bylaws or articles of incorporation of the community  
 32      organization.

33      (e) At least sixty (60) days before commencing a civil action under  
 34      this section, a community organization must issue a notice by certified  
 35      mail, return receipt requested, that:

36          (1) specifies:

37              (A) the nature of the alleged nuisance;

38              (B) the date the nuisance was first discovered;

- 1 (C) the location on the property where the nuisance is
- 2 allegedly occurring;
- 3 (D) the intent of the community organization to bring a civil
- 4 action under this section; and
- 5 (E) the relief sought in the action; and
- 6 (2) is provided to:
  - 7 (A) the owner of record of the premises;
  - 8 (B) tenants located on the premises;
  - 9 (C) the enforcement authority; and
  - 10 (D) any person that possesses an interest of record.

11 (f) In any action filed by a community organization under this  
 12 section, a court may award reasonable attorney's fees, court costs, and  
 13 other reasonable expenses of litigation to the prevailing party.

14 **(g) If a second or subsequent civil judgment is entered under**  
 15 **this section:**

- 16 **(1) against an owner of a known or recorded fee interest, life**
- 17 **estate, or equitable interest as a contract purchaser of**
- 18 **property; and**
- 19 **(2) during any two (2) year period;**
- 20 **a court may order the owner to pay treble damages based on the**
- 21 **costs of the ordered action. The second or subsequent civil**
- 22 **judgment may relate to the same property or a different property**
- 23 **held by the owner.**

24 SECTION 10. IC 36-7-36 IS ADDED TO THE INDIANA CODE  
 25 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 26 JULY 1, 2009]:

27 **Chapter 36. Abatement of Vacant Structures and Abandoned**  
 28 **Structures**

29 **Sec. 1. As used in this chapter, "abandoned structure" means**  
 30 **any of the following:**

- 31 **(1) Commercial real property or a vacant structure on**
- 32 **commercial real property that is used or was previously used**
- 33 **for industrial or commercial purposes:**
  - 34 **(A) that the owner of the property or structure has**
  - 35 **declared in writing to be abandoned; or**
  - 36 **(B) for which the owner of the property or structure has**
  - 37 **been given a written order by an enforcement authority to**
  - 38 **rehabilitate or demolish and the owner:**

(i) has not applied for a permit to rehabilitate or demolish the property or structure; or

(ii) applied for and was granted a permit, but rehabilitation or demolition work has not commenced on the property or structure within thirty (30) days after the date the permit was granted.

(2) Real property that has not been used for a legal purpose for at least six (6) consecutive months and:

(A) in the judgment of an enforcement authority, is in need of completion, rehabilitation, or repair, and completion, rehabilitation, or repair work has not taken place on the property for at least six (6) consecutive months;

(B) on which at least one (1) installment of property taxes is delinquent; or

(C) that has been declared a public nuisance by a hearing authority.

(3) Vacant real property on which criminal activity under IC 35 has occurred on more than three (3) occasions during any six (6) consecutive month period.

(4) Property that has been declared in writing to be abandoned by the owner, including an estate or a trust that possesses the property.

(5) Vacant property on which a municipal lien has remained unpaid for at least one (1) year.

Sec. 2. As used in this chapter, "enforcement authority" has the meaning set forth in IC 36-7-9-2.

Sec. 3. As used in this chapter, "hearing authority" has the meaning set forth in IC 36-7-9-2.

Sec. 4. As used in this chapter, "owner" means a person that holds a substantial interest in property in the form of a known or recorded fee interest, life estate, or equitable interest as a contract purchaser.

Sec. 5. As used in this chapter, "vacant structure" means a structure or building that is not being occupied by an owner, tenant, or others authorized by the owner.

Sec. 6. The legislative body of a municipality or county:

(1) may adopt this chapter by ordinance; and

(2) if the legislative body adopts this chapter by ordinance,

1           shall adopt rules and procedures for its enforcement.

2           **Sec. 7. (a)** An enforcement authority may administer and  
3           enforce this chapter in conjunction with a civil action under  
4           IC 32-30-6, IC 32-30-7, IC 32-30-8, IC 36-1-6, or IC 36-7-9.

5           **(b)** Under all enforcement and civil actions undertaken under  
6           subsection (a), the enforcement authority is entitled to recover  
7           court costs and attorney's fees.

8           **Sec. 8.** If an enforcement authority determines that a vacant  
9           structure or an abandoned structure exists, an abatement notice  
10          and order may be sent to the owner that directs the owner to:

11          **(1)** abate the vacant structure or abandoned structure by  
12          cleaning and securing or boarding up the vacant structure or  
13          abandoned structure and the premises upon which it is  
14          located; and

15          **(2)** erect fences, barriers, berms, or other suitable means to  
16          discourage:

17                  **(A)** access to the vacant structure or abandoned structure;  
18                  and

19                  **(B)** illegal dumping or littering on the premises upon which  
20          the vacant structure or abandoned structure exists.

21          **Sec. 9. (a)** An owner of a property that remains a vacant  
22          structure or an abandoned structure for at least ninety (90)  
23          consecutive calendar days may be liable for a civil penalty in the  
24          amount of five hundred dollars (\$500) per vacant structure or  
25          abandoned structure, not to exceed five thousand dollars (\$5,000)  
26          per structure per year, unless:

27          **(1)** documentation has been filed and approved by the  
28          enforcement authority that indicates the owner's intent to  
29          eliminate the vacant structure or abandoned structure status  
30          of the property;

31          **(2)** the owner is current on all property taxes and special  
32          assessments; and

33          **(3)** at least one (1) of the following applies:

34                  **(A)** The structure is the subject of a valid building permit  
35                  for repair or rehabilitation and the owner is proceeding  
36                  diligently and in good faith to complete the repair or  
37                  rehabilitation of the structure as defined in the  
38                  enforcement order.

- 1           **(B) The structure is:**  
 2           **(i) maintained in compliance with this chapter; and**  
 3           **(ii) actively being offered for sale, lease, or rent.**  
 4           **(C) The owner can demonstrate that the owner made a**  
 5           **diligent and good faith effort to implement actions**  
 6           **approved by the enforcement authority.**  
 7           **(b) If the structure continues to remain a vacant structure**  
 8           **beyond the initial ninety (90) days described in subsection (a) and**  
 9           **the owner does not meet any of the exceptions set forth in this**  
 10           **section, the enforcement authority may continue to assess penalties**  
 11           **each year on each structure in the following amounts:**  
 12           **(1) One thousand dollars (\$1,000) for the second ninety (90)**  
 13           **calendar day period each structure remains a vacant**  
 14           **structure or an abandoned structure.**  
 15           **(2) One thousand five hundred dollars (\$1,500) for the third**  
 16           **ninety (90) calendar day period each structure remains a**  
 17           **vacant structure or an abandoned structure.**  
 18           **(3) Two thousand dollars (\$2,000) for the fourth and each**  
 19           **subsequent ninety (90) calendar day period thereafter each**  
 20           **structure remains a vacant structure or an abandoned**  
 21           **structure.**  
 22           **A civil penalty under this subsection may not exceed five thousand**  
 23           **dollars (\$5,000) per structure per year."**  
 24           Renumber all SECTIONS consecutively.  
           (Reference is to HB 1358 as printed February 11, 2009.)

**and when so amended that said bill do pass.**

Committee Vote: Yeas 9, Nays 0.

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**Lawson C**

**Chairperson**